

COMMISSIONER'S DIRECTIVE # 32

MAY 2008

(Replaces Directive #32, dated July 2006)

DISCLAIMER: Commissioner's Directives are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Utility Services Use Tax

EFFECTIVE DATE: March 24, 2008

REFERENCE: IC 6-2.3-1-3.5; IC 6-2.3-3-11; and IC 6-2.3-5.5

I. IMPOSITION OF UTILITY SERVICES USE TAX

An excise tax known as the utility services use tax is imposed on the retail consumption of utility services in Indiana that are billed after June 30, 2006 at the rate of one and four tenths-percent (1.4%). The tax is measured by the gross consideration received by the seller from the sale of the following commodities or services: electricity, natural gas, water, steam, sewage or telecommunications services.

II. EXEMPTIONS

The same exemptions and nontaxable receipts allowed by the utility receipts tax apply to the utilities services use tax. The utility services use tax is an excise tax imposed on the retail consumption of utility services if the utility receipts tax is not paid by the utility providing the service. The utility services use tax is not imposed to the extent the receipts for utility services are subject to the utility receipts tax, and the tax is paid on those utility services.

III. REGISTRATION AND FILING REQUIREMENTS

The person who consumes the utility services is personally liable for the utility services use tax. The consumer must register with the Department and remit the tax due on all utility services if either the seller has not collected the utility services use tax or the utility is not subject to the utility receipts tax. The consumer is required to remit the tax to the Department on Form USU-103 by the 30th day after the end of the month in which the utility services were purchased. The consumer is required to file a return even if no tax is due.

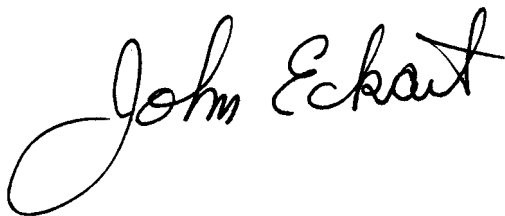
A seller of utility services may elect to register with the Department to collect the utility services use tax on behalf of persons liable for the utility services use tax. A seller that registers to collect the utility services use tax is required to remit all tax collected by the 30th day after the end of the month in which the utility services were sold to the person.

If the seller registers to collect the tax, the purchaser shall pay the tax to the seller from whom the utility services were purchased. The seller shall collect the tax as an agent for the state. When the seller collects the utility services use tax, the seller shall issue a receipt to the person for the utility services use tax collected.

If the Department assesses the utility services use tax and the person has already paid the tax to a seller registered to collect the tax, the person may avoid paying the tax by submitting a receipt or other evidence showing that the utility services use tax was paid to the seller.

A seller that has registered with the Department to collect the utility services use tax holds those taxes in trust for the state and is personally liable for the payment of those taxes to the state.

Registration forms for the seller and the user are available through the Department's Web site at www.in.gov/dor/taxforms/state.html#business

A handwritten signature in black ink that reads "John Eckart". The signature is fluid and cursive, with the first letter of "John" being a large, stylized capital "J".

John Eckart
Commissioner